

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

WAYNE PETTAWAY, Plaintiff,)
v.) C.A. No. 13-213 Erie
MAXINE OVERTON, et al., Defendants.)

MEMORANDUM ORDER

Plaintiff's Complaint was received by the Clerk of Court on July 16, 2013, and was referred to United States Magistrate Judge Susan Paradise Baxter for Report and Recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation, issued on February 9, 2015, recommended that the motion to dismiss by Defendant Maxa [ECF No. 70] be GRANTED. It is further recommended that Defendant Alexander-Gottesman Jill be dismissed from this case pursuant to Rule 4(m) of the Federal Rules of Civil Procedure, that the Clerk of Court be directed to remove Christine Zirkle from the docket¹, and that he close this case. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Plaintiff by mail at SCI Albion, where he is incarcerated, and on Defendants. Objections were filed by Plaintiff on February 18, 2015.

¹ By separate Order of this date, the Court has directed the dismissal of the claims asserted against Defendant Maxine Overton. In his Second Amended Complaint, the Plaintiff named Zirkle as the successor to Overton, in the same position with the same apparent responsibilities. Thus, in any event the claims against Zirkle would be dismissed for the reasons applicable to those against Overton.

After a de novo review of the pleadings and documents in the case, together with the Report and Recommendation and objections thereto, the following Order is entered:

AND NOW, this 24th day of March, 2015,

IT IS HEREBY ORDERED that the Motion to Dismiss by Defendant Maxa [ECF No. 70] is GRANTED. It is further ORDERED that Defendant Alexander-Gottesman Jill is dismissed from this case pursuant to Rule 4(m) of the Federal Rules of Civil Procedure. The Clerk of Court is directed to remove Christine Zirkle from the docket, and close this case. The Report and Recommendation of Magistrate Judge Baxter, issued February 9, 2015, is adopted as the Opinion of the court.



MARK R. HORNAK
United States District Judge

cc: Susan Paradise Baxter
U.S. Magistrate Judge

all parties of record